



November 20, 2009

TO: The Honorable City Commission, City of Sarasota

FROM: Robert J. Bartolotta, City Manager

SUBJECT: Police Investigation Reports

The Hillsborough County Sheriff's Department has completed their comprehensive investigation into the circumstances of the arrest of Juan Gomez-Perez and the events following the arrest. The lengthy report and back up materials numbered over 3000 pages, and included dozens of interviews and exhibits. All of these efforts undertaken by the Hillsborough County Sheriff's Department were provided free of charge as a public mutual aid service. Sarasota is extremely grateful for the support of Sheriff Gee and the four officials assigned to this case. Following extensive review of the investigative report(s), and after affording the subjects their due process rights under the State Officer Bill of Rights, the following disciplinary measures have been taken:

Officer Christopher Childers

Officer Childers has been dismissed from employment with the City of Sarasota (effective immediately).

Officer Demitri Konstantopoulos

Officer Konstantopoulos has been suspended without pay for one day (effective immediately).

Sergeant Kenneth Castro

Sergeant Castro has received a disciplinary letter of reprimand.

Risk Manager Larry Hobbs

Mr. Hobbs has received a disciplinary letter of reprimand.

Chief Peter J. Abbot

Effective November 9, 2009, Chief Abbot has been suspended without pay for two weeks (retroactively).

The arrest of Juan Gomez-Perez was appropriate. However, all citizens who are interacting with the Police Department are entitled to be treated with dignity and respect. The State Attorney had previously ruled on the events surrounding the arrest of Mr. Gomez-Perez and determined that no criminal charges were appropriate for involved parties based on criminal standards. The City's review and disciplinary actions are based on administrative standards. Many of the events surrounding the arrest do not reflect the City's adopted standards of behavior for employees.

The Hillsborough County Sheriff's Investigative Report(s) determined the following:

Officer Childers

Four violations of Standard Operating Procedures/General Orders were sustained.

1. Officer Childers did not exercise preventive measures which would have prohibited Mr. Gomez-Perez from exiting the police vehicle thus exposing him to potential serious injury.
2. Officer Childers had time and other options to control Mr. Gomez-Perez, which would have required a lesser level of force than what Officer Childers utilized during this incident.
3. Officer Childers failed to document the use of force utilized in the incident
4. Officer Childers' conduct had the expectation of damaging the department's public image, integrity or reputation

Officer Konstantopoulos

One violation of Rule/General Order was sustained.

1. Officer Konstantopoulos failed to inform a supervisor and/or Internal Affairs of the circumstances regarding this incident. As a witness to the events he had an obligation to report these events.

Sergeant Castro

One violation of Rule/General Order was sustained.

1. Sergeant Castro's actions of July 16th at the US Post Office, Wachovia Bank and Mr. Gomez-Perez's home were not part of his duties, were not approved by a supervisor and did not require police action.

Larry Hobbs

Violations of City Policies and Procedures were found.

Mr. Hobbs exercised poor judgment in the handling of the settlement for potential liability. He failed to notify his supervisor, the City Manager or the City Attorney prior to executing the agreement. His research on the case lacked thoroughness and did not include review of the video, arrest report or medical records.

Chief Peter J. Abbott

The Chief failed to exercise proper judgment in the handling of this case.

Chief Abbott directed Sergeant Castro (who was investigating the criminal allegations against Officer Childers) to be involved as an interpreter in the settlement discussion between Risk Management and Mr. Gomez-Perez. The Police Department should not have been involved in these discussions and instead should have merely notified Risk Management. In addition, the Chief's conduct in discussing settlement issues, while only speculative in nature, was inappropriate and led to misunderstandings by his staff.

Conclusions and Perspective

I want to thank the community and the police department for their patience while waiting for the results of the investigation. The time lines followed in this investigation were dictated by three important factors-- the necessity of handling the criminal investigation first, the process of going to an outside agency, and complying with the requirements of the State Police Officers Bill of Rights. The decisions regarding disciplinary measures and the action plan were not made lightly. They were made after extensive investigations, consultations, and many late nights. I personally have read the reports provided by Hillsborough County Sheriff's Department in their entirety, and have listened to many of the audio recordings of their interviews with witnesses and those being investigated.

In the last few months, much discussion has occurred regarding the leadership of the Sarasota Police Department. While the Chief is being disciplined for his actions there remains considerable confidence from both management and community leaders in Chief Abbott's ability to lead the Sarasota Police Department. The investigative report indicates that the Chief failed to exercise proper judgment in the handling of the case. However, the Chief did take decisive action when learning of the incident including immediately ordering a criminal investigation, recording all interviews and requesting the assistance of the FBI in monitoring the investigation. His lapse in judgment included involving members of the police department in risk management. Although it is noted that this action was undertaken with the motive of protecting the City from financial liability it was inappropriate at best. Chief Abbot has taken responsibility for his actions in the events surrounding the Perez Gomez arrest. He will resume his responsibilities as Chief effective tomorrow - November 21, 2009.

It is unlikely that there will be consensus regarding the disciplinary measures taken today. Many will view these actions as too harsh; others will view them as too lenient. Nevertheless, few would argue that it is essential that our community has confidence in the integrity and actions of its police department. Although the allegations and charges of the investigative effort are very serious, it is important for the community not to judge the entire Sarasota Police Department by the actions of a few. Although changes are needed, the City continues to believe that the vast majority of Sarasota Police Officers serve the City with bravery and integrity. The disciplinary actions taken today will address the behaviors of those involved, and will represent the conclusion of the criminal and administrative review of the events surrounding the Juan Gomez Perez arrest. The City now will begin making needed corrections and work towards standards that are fair, just and above reproach. We view the upcoming months and the involvement of the newly created Police Advisory Panel with much encouragement. It is our hope that the panelists will work to create a greater community understanding of the police department and to improve the relationship between the community and the police in Sarasota.

Action Plan for the Future

The Chief is being tasked with making a number of continued improvements to the Police Department. Some of these are outlined below:

1. SPD will implement Commission approved recommendations of the Police Advisory Panel.

2. A review of the Internal Affairs Office will be conducted. An analysis will be made as to the IA Commander having joint reporting responsibility to both the Chief and the City Manager.
3. The complaint handling process of the Police Department will be reviewed, enhanced and independently tested to ensure that the public feels comfortable in communicating grievances/complaints and confidence that said grievances will be recorded and properly addressed.
4. A review will be made of the possibility of streamlining the Department's general orders and rules to ensure a quicker resolution of complaints.
5. The Department will review the feasibility of installing video/audio recording capability in all patrol vehicles.
6. The Department will work closely with the City Attorney's Office in the best interest of the City.
7. Recruitment strategies will be reviewed with an eye towards more diversity in the Department.
8. A recommendation will be made within the next six months to enhance our community oriented policing activities in the Newtown Area.
9. Additional training resources will be recommended in order to re-emphasize standards dealing with ethics and professional conduct.

The results and materials of the Hillsborough study will be available for public review and have been provided to the City Auditor and Clerk for public distribution. The three investigative reports will also be made available on the City's webpage.



Interoffice Memorandum

Date: November 20, 2009

To: Officer Christopher Childers
From: City Manager
Subject: Internal Affairs Case # 09-007 - Dismissed

A pre-determination hearing was held at 2050 Ringling Boulevard on November 13, 2009 at 1000 hours, in which you were given an opportunity to explain your reasons for your conduct/behavior as a Police Officer of the Sarasota Police Department, in the performance of your duties and responsibilities.

By and under the authority granted by Rule 7 of the Personnel Rules and Regulations for the Civil Service and General Personnel System, City of Sarasota, Florida, approved and adopted by the City Commission in pursuance of subsection (g) of Section 5, Article V of the Charter of the City of Sarasota, adopted by voters of the City of Sarasota at an election held November 5, 2002, in accordance with the Constitution and Laws of the State of Florida, you are hereby notified that you are **dismissed** from employment with the City of Sarasota for reasons that you are in violation of Rule 7.17M of the City of Sarasota Personnel Rules and Regulations and Sarasota Police Department General Orders G.O.120.32, G.O.120.111, G.O.120.112.5, G.O. 214.51 and S.O.P 617.69.

As provided in Rule 7.22 of the Personnel Rules and Regulations for Civil Service and General Personnel System, City of Sarasota, Florida, you are further notified that you may, within seven (7) working days from receipt of this letter, appeal the decision of your dismissal to the Civil Service Board. Upon your written request to the Human Resources Director, the matter will be placed on the Civil Service Board's agenda and you will be notified of the time and place for the appeal hearing.

You may request a name-clearing hearing for the purpose of factually disputing the statement or charges. Its purpose is not to inquire into or dispute the propriety of the City's decision to dismiss you. You may submit documents or testimony at the hearing that contradicts the stated charges made in connection with your dismissal.

If you appeal to the Civil Service Board, said Civil Service appeal hearing will also serve as your name-clearing hearing, if you so request. If you do not so request and you appeal to the Civil Service Board, your right to a name-clearing hearing will be considered to have been waived.

You may elect to utilize Article 13, Grievance and Arbitration Procedure, as outlined in the current Police Benevolent Association Bargaining Agreement. However, according to Article 13, Section M (1), you may not use both the civil service process and the grievance procedure.

Charges:

Rule 7.17M: Violation of rules, orders and policies issued and adopted by the City and/or Department, to wit:

G.O. 120.32: Officers of the Sarasota Police Department are expected to utilize, without hesitation, reasonable force to protect themselves and others from the threat of physical harm. The authority to use, including deadly force, is held in public trust and such use of authority carries with it the responsibility to ensure that reason prevails in the use of force during the performance of lawful police duties.

G.O.120.111: Officers shall complete the Level of Resistance Report, Annex A, whenever: **L:** An officer uses a striking technique or takedown to overcome physical resistance (e.g. punch, knee spike, arm-bar, tackle, etc.)

G.O. 120.112.5: Officers shall document the use of force and reason(s) in clear detail in a Level of Resistance Report, Offense Report and on any Probable Cause Affidavit where the use of force relates to the nature of the charge.

G.O. 214.51: Employees shall conduct themselves on-duty and off-duty in a way that does not damage or have the probable expectation of damaging the employee's, or the department's public image, integrity, or reputation.

S.O.P. 617.69: The Officer shall be responsible for the security of the arrestee until he or she is properly relieved or the arrestee is accepted by the holding facility.

Summary of Complaint:

On June 26, 2009, Sarasota Police Department Officer Christopher Childers arrested Juan G. Perez for Disorderly Intoxication and Resisting an Officer without Violence to His or Her Person. Officer Childers transported Mr. Perez to the Sarasota County Jail and parked within the secure sally port adjacent to the booking area. This area of the detention facility was monitored by two (2) video surveillance cameras that recorded the following events. While Officer Childers was seated in the driver's seat of the vehicle, Mr. Perez was able to exit the rear of the vehicle via an open rear passenger window. Mr. Perez, who was handcuffed behind his back, exited head first and consequently, appeared to strike his head against the pavement. Officer Childers exited the vehicle and walked into close proximity of Mr. Perez, who was sitting/laying on the pavement and attempted to stand up. Officer Childers administered two (2) kicks to the midsection of Mr. Perez, which caused him to fall back down to the pavement. Officer Childers then placed his foot on Mr. Perez to detain him until he was escorted inside the facility. This use of force was not documented by Officer Childers in any Level of Resistance Report, Offense Report or Probable Cause Affidavit. The video of this incident was later released to the media which has the probable expectation of

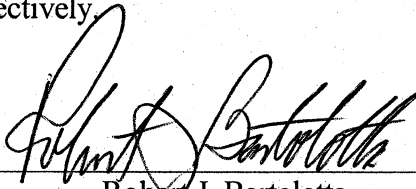
I.A. Case # 09-007
Memo to: Ofc. Christopher Childers
Date: November 20, 2009

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damaging the public image, integrity, or reputation of the Sarasota Police Department.

In summary, the above constitutes a violation of the City of Sarasota Personnel Rules and Regulation 7.17M and Sarasota Police Department General Orders 120.32, G.O.120.111, G.O.120.112.5, G.O. 214.51, and Sarasota Police Department S.O.P. 617.69.

After a complete review of all circumstances, you are hereby notified that you are being **dismissed** from employment with the City of Sarasota effective upon receipt of this memorandum. Regarding the status of your fringe and retirement benefits, you may contact Human Resources and the City Auditor and Clerk's Office respectively.



Robert J. Bartolotta
City Manager

Notice was served to Officer Christopher Childers this 20th day of November, 2009.

(Signature of Serving Official)

c: Director of Human Resources



Interoffice Memorandum

Date: November 20, 2009

To: Officer Demetri Konstantopoulos
From: City Manager
Subject: Internal Affairs Case # 09-007 - Suspension Without Pay

A pre-determination hearing was held at 2050 Ringling Boulevard on November 13, 2009 at 0830 hours, in which you were given an opportunity to explain your reasons for your conduct/behavior as a Police Officer of the Sarasota Police Department, in the performance of your duties and responsibilities.

By and under the authority granted by Rule 7 of the Personnel Rules and Regulations for the Civil Service and General Personnel System, City of Sarasota, Florida, approved and adopted by the City Commission in pursuance of subsection (g) of Section 5, Article V of the Charter of the City of Sarasota, adopted by voters of the City of Sarasota at an election held November 5, 2002, in accordance with the Constitution and Laws of the State of Florida, you are hereby notified that you are **suspended** from employment with the City of Sarasota for **one day (8.25 hours)**. You are in violation of Rule 7.17M of the City of Sarasota Personnel Rules and Regulations and Sarasota Police Department General Order 214.431.

As provided in Rule 7.22 of the Personnel Rules and Regulations for Civil Service and General Personnel System, City of Sarasota, Florida, you are further notified that you may, within seven (7) working days from receipt of this letter, appeal the decision of your suspension to the Civil Service Board. Upon your written request to the Human Resources Director, the matter will be placed on the Civil Service Board's agenda and you will be notified of the time and place for the appeal hearing.

You may request a name-clearing hearing for the purpose of factually disputing the statement or charges. Its purpose is not to inquire into or dispute the propriety of the City's decision to suspend you. You may submit documents or testimony at the hearing that contradicts the stated charges made in connection with your suspension.

If you appeal to the Civil Service Board, said Civil Service appeal hearing will also serve as your name-clearing hearing, if you so request. If you do not so request and you appeal to the Civil Service Board, your right to a name-clearing hearing will be considered to have been waived.

You may elect to utilize Article 13, Grievance and Arbitration Procedure, as outlined in the current Police Benevolent Association Bargaining Agreement. However, according to Article 13, Section M (1), you may not use both the civil service process and the grievance procedure.

Charges:

Rule 7.17M

Violation of rules, orders and policies issued and adopted by the City and/or Department, to wit:

G.O. 214.431:

An employee who has information concerning illegal actions, dereliction of duty, malfeasance, misfeasance, unprofessional, or unethical conduct by another employee shall immediately report same to immediate supervisor or Internal Affairs.

I.A. Case # 09-007
Memo to: Ofc. Demetri Konstantopoulos
Date: November 20, 2009

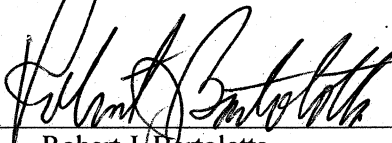
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Summary of Complaint:

On June 26, 2009, Sarasota Police Department Officer Christopher Childers arrested Juan G. Perez for Disorderly Intoxication and Resisting an Officer without Violence to His or Her Person. Officer Childers transported Mr. Perez to the Sarasota County Jail and parked within the secure sally port adjacent to the booking area. Officer Demetri Konstantopoulos entered the sally port shortly thereafter and parked near Officer Childers. This area of the detention facility was monitored by two (2) video surveillance cameras that recorded the following events. While Officer Childers was seated in the driver's seat of the vehicle, Mr. Perez was able to exit the rear of the vehicle via an open rear passenger window. Mr. Perez, who was handcuffed behind his back, exited head first and consequently, appeared to strike his head against the pavement. Officer Childers exited the vehicle and walked into close proximity of Mr. Perez, who was sitting/laying on the pavement and attempted to stand up. Officer Konstantopoulos walked near Officer Childers and was present when Officer Childers administered two (2) kicks to the midsection of Mr. Perez, which caused him to fall back down to the pavement. Officer Childers then placed his foot on Mr. Perez to detain him until he was escorted inside the facility. This use of force was not documented by Officer Childers in any Level of Resistance Report, Offense Report or Probable Cause Affidavit. The video of this incident was later released to the media which has the probable expectation of damaging the public image, integrity, or reputation of the Sarasota Police Department. Officer Konstantopoulos failed to report his observations to an immediate supervisor or Internal Affairs.

In summary, the above constitutes a violation of the City of Sarasota Personnel Rules and Regulation 7.17M and Sarasota Police Department General Order 214.431.

After a complete review of all circumstances, you are hereby notified that you are being suspended for a period of **one day (8.25 hours)**. During this time, you are not to engage in any police related activity. Your take-home vehicle privileges are suspended and your vehicle will be stored at the Beneva Road facility. You shall notify and obtain approval from your division commander or designee prior to entering any S.P.D. facility for any reason. While you are in the facility, you will be accompanied at all times by a person designated by your division commander or designee.



Robert J. Bartolotta
City Manager

Notice was served to Officer Demetri Konstantopoulos this 20th day of November, 2009.

(Signature of Serving Official)

c: Director of Human Resources



Interoffice Memorandum

Date: November 20, 2009

To: Sergeant Kenneth Castro

From: City Manager

Subject: Written Reprimand: I. A. Case# 09-010

On Thursday, July 16, 2009, Mr. Gomez-Perez advised you that he had not received his settlement check in the mail. You reminded him the check was not supposed to arrive before Friday or the following Monday. Later, you advised Chief Peter J. Abbott of the conversation and the Chief telephoned Risk Manager Larry Hobbs, who advised the check had been sent out two days prior. Chief Abbott directed you to have Mr. Gomez-Perez check his mailbox since the check should have arrived. You told Chief Abbott that you were going to investigate the matter and left.

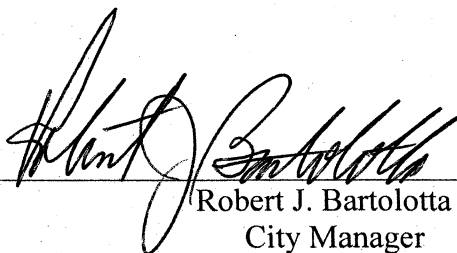
Without supervisory direction or authorization, you proceeded to the U.S. Post Office, identified yourself as a law enforcement officer on official police business, and requested and received the letter containing the settlement check. You delivered the check to Mr. Gomez-Perez at his residence and then gave Mr. Gomez-Perez a ride to Wachovia Bank to cash the check. Following the return to the residence, a confrontation occurred between you and Mr. Delgado regarding statements you made and the money possessed by Mr. Gomez-Perez. This all occurred in the presence of Sarasota Herald Tribune reporter Todd Ruger and an unidentified interpreter employed by the newspaper.

Although the circumstances surrounding the Gomez-Perez investigation were unique and you saw your actions as a police service in support of an alleged victim, your actions at the U.S. Post Office and Wachovia Bank were not part of your duties, were not approved by a supervisor, and did not require immediate police action.

In summary, the above constitutes a violation of the City of Sarasota Personnel Rules 7.17M – *Violation of rules, orders and policies issued and adopted by the City and/or Department to wit:*

General Order 214.01 – Non-Sanctioned Police Investigations – Officers will not take it upon themselves to undertake any personal investigation or other police action not part of their regular duties without obtaining permission from a supervisor unless the situation requires immediate police action.

This department practices progressive discipline and further violations of this nature will result in more severe disciplinary action.



Robert J. Bartolotta
City Manager

Sergeant Kenneth Castro
Written Reprimand: I. A. Case # 09-010
November 20, 2009
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I, Sergeant Kenneth Castro, understand and acknowledge receipt of this memorandum.

Sergeant Kenneth Castro

Date

RJB/LLB/ys



EMPLOYEE NOTICE

(Reference Personnel Rule 2.4)

NAME: Larry Hobbs	DATE: 11/20/09
POSITION: Manager - Risk Management	DEPARTMENT: Human Resources

This notice is given to remind you to be more careful in your work and conduct and to help you avoid disciplinary action.

NATURE OF INFRACTION	COMMENTS
<input type="checkbox"/> ATTENDANCE <input type="checkbox"/> SAFETY <input type="checkbox"/> DEPARTMENT RULES <input type="checkbox"/> CONDUCT <input type="checkbox"/> WORK QUALITY <input checked="" type="checkbox"/> WORK PERFORMANCE <input type="checkbox"/> OTHER	<p>Mr Hobbs involvement in brokering a cash settlement with Juan Gomez-Perez demonstrated a failure to exercise good management judgment. Mr Hobbs was informed of the potential for his involvement on July 10, 2009 by the Chief of Police. At that time, he was aware of the existence of a videotape of the incident at the sally port and the Chief's concern that Mr. Gomez-Perez may have been injured in the incident. Mr Hobbs failed to view the video to determine the extent of potential injuries, did not obtain copies of written police reports regarding the incident or secure medical records substantiating Mr Gomez-Perez's extent of injuries. He also failed to document potential losses Mr. Gomez-Perez may have incurred.</p> <p>(continued on attached form)</p>

ACTION TAKEN: Written reprimand. Further actions of this nature will result in more severe disciplinary action.
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RECORD SECTION

Has employee been warned before about this offense? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	How? <input type="checkbox"/> Oral <input type="checkbox"/> Written	When?
REMARKS:		
ROUTING: <input type="radio"/> Employee <input type="radio"/> Department of Human Resources	Prepared By (Supervisor) Kurt Hoverter	Approved By (Div. Head) Kurt Hoverter
Approved (Dept. Head) 		Date 11/20/09
Signature of Employee Acknowledging Receipt		Date

Larry Hobbs - Employee Notice Dated 11/ 20/09 - (continued)

In addition, Mr. Hobbs assumed the Chief of Police's notification informing the City Manager of the event, included notice of the attempt to settle the case by Risk Management. In fact, the City Manager, City Attorney, and the Human Resources Director were not apprised of the settlement agreement brokered by Mr. Hobbs on Saturday, July 11, 2009 until the following workweek.

While Mr. Hobbs involvement was an earnest attempt to satisfy the request made by a senior leader in the City (Chief of Police), the failure to secure all the necessary background information and notify the appropriate staff, demonstrated a failure to exercise good management judgment.

Future actions required:

1. Notification – Future cases involving settlement requests for personal injury or the potential for excessive force charges must be reviewed by the Human Resources Director, City Attorney and the City Manager/ City Auditor and Clerk for their respective employees before participating in any brokered settlement meetings.
2. Timing – Risk Management will ensure that cases involving personal injury or potential charges for excessive force are thoroughly investigated and adjudicated before entering into settlement proceedings.
3. Records – Risk Management will secure all relevant reports, records, audio and visual evidence before entering into approved settlement discussions with affected parties.
4. Database development – Risk Management will develop a sortable database for incident settlements to include but not be limited to the extent of damage/injury, type of incident, date of incident, involved employee(s), department, fund, settlement offered, settlement agreed upon, date of settlement, and claimant/attorney of record.



November 20, 2009

TO: Chief Peter J. Abbott

FROM: Robert J. Bartolotta, City Manager

SUBJECT: **Internal Affairs Case #09-12-Suspension Without Pay**

The recently completed Investigation Report by the Hillsborough County Sheriff's Office concluded that you erred in judgment in involving your department in the risk management elements of the Juan Gomez-Perez case. While you initiated a criminal investigation into the actions of Officer Childers you also directed that the investigator be involved in the risk management discussions. This was clearly a conflict of interest. You further made statements to your staff regarding the manner of settlement.

In the aftermath of the initiation of the investigation numerous other elements surfaced which tended to cast negative view of the department and the way that this manner was handled. These include:

Delay on part of a Lt to report the initial event for nearly 10 days

Statements made to staff involving how you wanted risk settlement handled

Involvement of SPD with processing of risk mgt check cashing

While your actions may have been motivated by a sincere effort to minimize the City's liability they were nevertheless inappropriate.

As Chief, it is your responsibility to lead by example. In addition there is a concern with respect to the environment of the department that would allow such activities to not be questioned.

You are hereby suspended without pay for a two week period of time (10 working days). The date of the suspension will be from November 9, 2009 thru November 20, 2009.

Robert J. Bartolotta
City Manger